

Message Text

LIMITED OFFICIAL USE

PAGE 01 LIMA 09400 132309Z

61

ACTION OPIC-06

INFO OCT-01 ARA-06 ISO-00 EB-07 L-03 AID-05 SSO-00 /028 W

----- 051148

O 132220Z OCT 76

FM AMEMBASSY LIMA

TO SECSTATE WASHDC IMMEDIATE 2246

LIMITED OFFICIAL USE LIMA 9400

E.O. 11652: N/A

TAGS: EFIN

SUBJECT: CELANESE CLAIM

REF: A. STATE 232797; B) STATE 249815

1. EMBASSY HAS CONFIRMED THROUGH LOCAL BANKING OFFICIALS THAT EXCHANGE RATE GENERALLY APPLICABLE TO ALL DIVIDENT REMITTANCES IN DRAFT MARKET IS RATE IN EFFECT WHEN APPLICATION IS APPROVED, RATHER THAN RATE IN EFFECT WHEN APPLICATION WAS FILED. ONE SOURCE POINTED OUT THAT IN PRACTICE APPLICABLE EXCHANGE RATE IS THAT WHICH IS IN EFFECT WHEN CONVERSION TRANSACTION IS CARRIED OUT, BUT IN ALMOST ALL CASES THIS USUALLY COINCIDES WITH EXCHANGE IN EFFECT AT APPLICATION'S APPROVAL.

2. FOLLOWING INFORMATION PROVIDE IN RESPONSE TO QUESTIONS PRESENTED BY MANSBACH DURING RECENT VISIT LIMA.

A. REMITTANCE OF DIVIDENDS DERIVED FROM STOCK PURCHASED BY A U.S. INVESTOR IN A PERUVIAN MANUFACTURING CORPORATION IN 1966 WOULD BE GOVERNED BY THE DRAFT MARKET AT THIS TIME, NOT THE CERTIFICATE MARKET. ACCORDING TO IMF DESCRIPTION OF EXCHANGE CONTROLS IN PERU (APPENDIX J OF IMF REPORT SM/76/40), REMITTANCES OF DIVIDENDS CAN BE MADE THROUGH CERTIFICATE MARKET IF INVESTMENT WAS MADE IN CERTIFICATE MARKET AND INVESTOR OBTAINS MINISTERIAL RESOLUTION APPROVING REMITTANCE THROUGH THAT MARKET. SINCE CERTIFICATE MARKET WAS RE-

LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 02 LIMA 09400 132309Z

ESTABLISHED ON OCTOBER 5, 1967, HAVING BEEN SUSPENDED ON

MAY 16, 1960, INVESTMENT MADE IN 1966 COULD NOT HAVE BEEN THROUGH CERTIFICATE MARKET AND THUS DOES NOT FULFILL ONE OF NECESSARY REQUIREMENTS.

B. WE SEE NO REASON TO ASSUME THAT THE GOP WOULD VIEW THE SALE OF SOLES RECEIVED FROM CELANESE AND PURCHASED BY THE TREASURY DISBURSING OFFICE IN LIMA AS ANYTHING BUT A CIRCUMVENTION OF EXCHANGE CONTROL LAWS.

C. AS NOTED IN PARAGRAPH 1 ABOVE, THE RATE OF EXCHANGE THAT IS APPLICABLE WOULD BE THE RATE OF EXCHANGE CURRENT ON THE DATE THE APPLICATION IS APPROVED. IT IS OUR READING OF DECREE LAW 17710 ARTICLE 11 (CERTIFICATE MARKET) AND DECREE LAW 18275 (WHICH LEGALLY ESTABLISHED THE DRAFT MARKET) AND THE IMPLEMENTING SUPREME DECREE NO. 004-71-EF, ARTICLE 23, THAT THE BANCO DE LA NACION CAN AUTHORIZE SALE OF FOREIGN EXCHANGE FOR PAYMENT OF DIVIDENDS HELD BY NON-RESIDENTS WHEN THE SHARES WERE PURCHASED PRIOR TO MAY 15, 1970, AND AFTER THAT DATE PROVIDING THE FOREIGN EXCHANGE TO PURCHASE SAID SHARES WAS ACQUIRED THROUGH THE DRAFT MARKET. WE FIND NO LEGAL LANGUAGE THAT SUGGESTS, EVEN REMOTELY, THAT THE EXCHANGE RATE APPLICATION FOR PURCHASE WAS MADE.

D. RECENTLY WE FIND FEW EXAMPLES OF "ACTIVE BLOCKAGE" OF DIVIDENT REMITTANCES. HOWEVER, VERY SUBSTANTIAL DELAYS ARE CONTINUOUSLY ENCOUNTERED BY FIRMS IN REGARD TO PROFIT REMITTANCES. THE GOP AND ITS AGENT, THE BANCO DE LA NACION, HAVE NOT BEEN ABLE TO MAKE SALES OF FOREIGN EXCHANGE DUE TO A PRECARIOUS FOREIGN EXCHANGE POSITION DURING AND AFTER THE SECOND AND THIRD QUARTERS OF 1976.

E. ACCORDING TO SUPREME DECREE NO. 216-68-HC OF JUNE 28, 1968, THE REMITTANCE OF MONEY ABROAD IS SUBJECT TO A ONE PERCENT TAX. WE HAVE NOT FOUND THE LEGAL BASIS FOR THE 3 PERCENT STAMP TAX. WE ARE INFORMED BY A USUALLY RELIABLE INFORMANT IN FOREIGN EXCHANGE AND TAX QUESTIONS THAT A ONE PERCENT TAX PLUS .25 PERCENT BANK COMMISSION ARE THE STATUTORY DEDUCTIONS FROM ALL TRANSACTIONS INVOLVING REMITTANCES OF DIVIDENDS, ROYALTIES AND PROFITS.
LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 03 LIMA 09400 132309Z

3. INFORMATION REQUESTED REF. A GIVEN TO MANSBACH DURING RECENT VISIT. DEAN

LIMITED OFFICIAL USE

NNN

Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: CLAIMS, LAW, FOREIGN EXCHANGE RATES, INVESTMENT GUARANTEES, BANKS
Control Number: n/a
Copy: SINGLE
Draft Date: 13 OCT 1976
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: powellba
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1976LIMA09400
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Film Number: D760385-0440
From: LIMA
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1976/newtext/t19761058/aaaabxpw.tel
Line Count: 110
Locator: TEXT ON-LINE, ON MICROFILM
Office: ACTION OPIC
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 3
Previous Channel Indicators: n/a
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: 76 STATE 232797, 76 STATE 249815
Review Action: RELEASED, APPROVED
Review Authority: powellba
Review Comment: n/a
Review Content Flags:
Review Date: 21 JUL 2004
Review Event:
Review Exemptions: n/a
Review History: RELEASED <21 JUL 2004 by saccheem>; APPROVED <28 OCT 2004 by powellba>
Review Markings:

Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
04 MAY 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: CELANESE CLAIM
TAGS: EFIN, PE, US, CELANESE CORPORATION
To: STATE
Type: TE
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 04 MAY 2006